

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL DUANE STRAIN,

Defendant.

CR 19-111-BLG-DLC

ORDER

On January 6, 2021, the Court held a *Farett*a hearing pursuant to Defendant Michael Duane Strain's renewed motion to represent himself. (Docs. 20, 22.) Mr. Strain was present and in person. After taking the matter under advisement, the Court denies Mr. Strain's motion to self-represent.

A valid request to proceed *pro se* must be "(1) knowing and intelligent, (2) unequivocal, (3) timely, and (4) not for purposes of delay." *United States v. Schaff*, 948 F.2d 501, 503 (9th Cir. 1991). For a request to be unequivocal, the "defendant must make an explicit choice between exercising the right to counsel and the right to self-representation so that a court may be reasonably certain that the defendant wishes to represent himself." *United States v. Arlt*, 41 F.3d 516, 519 (9th Cir. 1994). Apart from an unintelligible motion for, *inter alia*, damages in the amount of \$900 million and other nonsensical relief at the outset of the proceeding,

Mr. Strain entirely refused to engage with the Court. Mr. Strain's refusal to communicate does not amount to an unequivocal waiver of his Sixth Amendment right to counsel, nor does it demonstrate that his request is "knowing[] and intelligent[]". *See Faretta v. California*, 422 U.S. 806, 835 (1975). Thus, the Court cannot grant him the relief he seeks.

Accordingly, IT IS ORDERED that Mr. Strain's motion (*see* Doc. 20) to represent himself is DENIED.

IT IS FURTHER ORDERED that Federal Defender Steve Babcock remains appointed as Mr. Strain's counsel, pursuant to the Court's previous Order, which denied Mr. Babcock's motion to withdraw. (Doc. 22.) However, and as previously ordered, Mr. Babcock may renew his motion if he wishes. (*Id.* at 4.)

Finally, IT IS ORDERED that on or before January 14, 2021, each party shall file a notice with the Court explaining their respective position as it relates to the path forward in this case.

DATED this 6th day of January, 2021.



Dana L. Christensen, District Judge
United States District Court